



4000-01-U

DEPARTMENT OF EDUCATION

34 CFR Chapter III

Proposed priority--Rehabilitation Training: Rehabilitation  
Long-Term Training program--Vocational Rehabilitation  
Counseling

[CFDA Number: 84.129B.]

AGENCY: Office of Special Education and Rehabilitative  
Services, Department of Education.

ACTION: Proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority under the Rehabilitation Training: Rehabilitation Long-Term Training program. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2013 and later years. We take this action to focus on training in an area of national need. This priority is designed to ensure that the Department funds high quality rehabilitation counseling programs that meet rigorous standards in order to provide students with the training necessary to become qualified rehabilitation counselors capable of meeting the current challenges facing State vocational rehabilitation (VR) agencies and related agencies.

DATES: We must receive your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Address all comments about this notice to RoseAnn Ashby, U.S. Department of Education, 400 Maryland Avenue, SW., room 5055, Potomac Center Plaza (PCP), Washington, DC 20202-2800.

If you prefer to send your comments by email, use the following address: [roseann.ashby@ed.gov](mailto:roseann.ashby@ed.gov). You must include the phrase "Vocational Rehabilitation Counseling" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: RoseAnn Ashby.

Telephone: (202) 245-7258.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this priority. To ensure that your comments have maximum effect in developing the final priority, we urge you to identify clearly the specific section of the priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563

and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in room 5055, 550 12th Street, SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Purpose of Program: The Rehabilitation Long-Term Training program provides financial assistance for—

(1) Projects that provide basic or advanced training leading to an academic degree in areas of personnel shortages in rehabilitation as identified by the Secretary;

(2) Projects that provide a specified series of courses or program of study leading to the award of a certificate in areas of personnel shortages in rehabilitation as identified by the Secretary; and

(3) Projects that provide support for medical residents enrolled in residency training programs in the specialty of physical medicine and rehabilitation.

Program Authority: 29 U.S.C. 772(b).

Applicable Program Regulations: 34 CFR parts 385 and 386.

PROPOSED PRIORITY:

This notice contains one proposed priority.

Vocational Rehabilitation Counseling.

Background:

Due to the changes in the economic circumstances in many States, people with disabilities are facing significant employment challenges. According to Krepcio and Martin (2012), some of those changes in the economy are characterized as: shifting job functions; increasing demands for certifications and technical skills; rapid changes in technology; and frequent and longer periods of unemployment, particularly for persons with disabilities. State VR agencies and their partners must respond to these changes by asking the question: In this new economy, where and how can the VR profession add true and targeted value

to achieve the goal of meaningful careers and independence for persons with disabilities?

It is equally important for the Department to ask this question about rehabilitation training grants authorized under Section 302 of the Rehabilitation Act of 1973, as amended. For example, the funding priority under the Rehabilitation Long-Term Training program has not changed in over two decades. The Department believes that a significant redesign of this priority is needed in order to help ensure that personnel trained under this program are prepared to help consumers achieve high-quality employment in today's economy. In order to support the redesign of the priority, the Department conducted two activities to obtain more information about the changes affecting the VR field. These activities were designed to engage grant recipients, consumers with disabilities, stakeholder groups, employers, and other partners in a discussion about the changes in the economy and how to better prepare rehabilitation counselors to meet the current employment needs of individuals with disabilities.

First, on November 8, 2012, the Department published a "Request for Information" (RFI) in the Federal Register (77 FR 66959) pertaining to the Rehabilitation Long-Term Training program. The purpose of the RFI was to collect

data focused on the following four areas: (1) challenges facing State VR agencies, counselors, and training programs; (2) effective practices aimed at increasing the supply, qualifications, and retention of VR counselors; (3) proposed changes to the Rehabilitation Long-Term Training program that reflect the needs of VR consumers; and (4) new and emerging skill sets needed by VR counselors in order to prepare individuals with disabilities for employment in the current and future labor markets. The Department received 61 comments, some of which provided examples and additional context in response to each of these four areas, and some of which supported the current priorities of the Rehabilitation Long-Term Training program.

Second, in December 2012, the Department participated in a National Employment Conference. The theme of this conference was "The New Economy: Re-think, Re-Align, Re-Invent," and included participants from State VR agencies, consumers with disabilities, businesses, stakeholders, and Federal agency partners from the Departments of Health and Human Services, Veterans Affairs, Labor, and the Social Security Administration. The goal of this conference was to explore several questions, including:

- What additional information do we need in order to broaden and strengthen our understanding of the new economy and its implications for people with disabilities?

- What are the most important aspects of our current system that should be preserved in order to meet the challenges of a new economy, and, alternatively, what aspects of our current system should be terminated as unproductive?

- What capacities do we need to develop within our system to better serve the needs of people with disabilities in the new economy?

- Finally, what relationships do we need to develop or strengthen in order to support people with disabilities in finding employment in the new economy?

The Department continues to pose many of these questions to its partners and stakeholders.

Both of these activities contributed to the redesign of a funding priority for the Rehabilitation Long-Term Training program. The goal of this priority is to increase the skills of rehabilitation counseling students so that upon graduation they are prepared to effectively meet the needs and demands of consumers with disabilities and employers. Therefore, the priority will require applicants

to provide projected employment needs for and shortages of rehabilitation counselors in their region; describe how they will implement specific grant requirements to comply with 34 CFR Part 386; strengthen the curriculum for training rehabilitation counselors, including incorporating practices that will ensure students are prepared to assist individuals with disabilities to obtain competitive employment in the current and future labor market and integrating the latest technology into methods of instruction; evaluate student proficiency; and evaluate the program, including the effect the program has over a period of time to fill vacancies in the State VR agency with qualified counselors. The redesign of this priority under the Rehabilitation Long-Term Training program is the first step in a much larger effort to ensure that students enrolled in degree programs receive the necessary training to help consumers achieve high-quality employment in today's economy.

The following is a summary of data collected from the RFI that supports the need for the Department to redesign the priority under the Rehabilitation Long-Term Training program in order to respond to changes in the VR field.

First, commenters indicated that for a variety of reasons, over the next five years, there will be a shortage



of qualified VR counselors to meet the needs of State VR agencies. Based on data the Department collected for FY 2012, 8,360 counselors were employed by State VR agencies. Based on their own State-level data, numerous commenters representing State VR agencies provided projections of the need for VR counselors to meet current and anticipated demands. In making these projections, several factors were considered, such as the pending retirement of current VR counselors, the scarcity of qualified counselors in certain geographical locations (e.g. rural areas), and staff turnover resulting from relatively low State salaries. Based on an aggregation of this State-level information, the Department estimates that there will be a need for 1,800 VR counselors over the next 5 years, approximately 360 new VR counselors per year. For these reasons, commenters expressed strong support for increasing the number of grants awarded under the Rehabilitation Long-Term Training program that emphasize the training of rehabilitation counselors.

Second, a number of commenters provided information to support the need for potential rehabilitation counselors to obtain master's degrees. State VR agencies, the commenters explained, are required to develop standards for their counselors under a Comprehensive System of Personnel

Development (CSPD) that are consistent with any national, State-approved, or State-recognized certification, licensing, or registration requirements. Most State VR agencies have adopted the standard for a qualified rehabilitation counselor established by the Commission on Rehabilitation Counselor Certification (CRCC), which is described at [www.crc certification.com](http://www.crc certification.com). Meeting this standard requires a master's degree in rehabilitation counseling or a related field, and commenters indicated that many State VR agencies are unable to comply with their CSPD requirements and have resorted to hiring individuals with a bachelor's degree in order to fill vacant positions. As a result, State VR agencies must provide additional training for these individuals to meet the CSPD requirements, which may delay compliance with the Rehabilitation Act and adversely impact positive employment outcomes for consumers. Further, State VR agencies have limited funds for additional training, thereby making the Department's financial support for students obtaining a master's degree critical to ensuring that State VR agencies comply with CSPD requirements and that limited funding is used effectively.

Third, commenters noted that staff in State VR agencies need more training to effectively work with

individuals who experience a wide range of disabilities, issues, and challenges. In particular, individuals with autism, individuals with mental health issues, transition-age youth with disabilities, and individuals with disabilities who have been involved in the criminal justice system comprise an increasing percentage of State VR agency caseloads. Rehabilitation counseling programs that prepare students to use current evidence-based and emerging practices to assist consumers receiving VR services to obtain and maintain employment across this range of disabilities, issues, and challenges are greatly needed.

Furthermore, rehabilitation counselors must be able to prepare consumers receiving VR services to meet the demands of the current and emerging economy, including the use of technology, so that they will be career-ready and have the resources to succeed in this new labor market.

Rehabilitation counselors must also be prepared to meet employer demands and better use labor market information in the job placement process. Training programs that prepare rehabilitation counselors to address these demands are needed.

#### References:

Fogg, N.P., Harrington, P.E., & McMahon, B.T. (2010). The impact of the Great Recession upon the unemployment of

Americans with disabilities. Journal of Vocational Rehabilitation, 33, 193-202.

Krepcio, K., & Martin, M.M. (2012). The State of the U.S. Workforce System: A Time for Incremental Realignment or Serious Reform? John J. Heldrich Center for Workforce Development, research report, 1-15.

Proposed Priority:

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority to fund programs leading to a master's degree in rehabilitation counseling. The goal of this priority is to increase the skills of rehabilitation counseling students so that upon successful completion they are prepared to effectively meet the needs and demands of consumers with disabilities and employers.

Under this priority, applicants must:

(a) Provide data on the current and projected employment needs and personnel shortages in State VR agencies and other related agencies as defined in 34 CFR 386.4 in their local area, region, and State, and describe how the proposed program will address those employment needs and personnel shortages.

(b) Describe how the rehabilitation counseling program will prepare rehabilitation counselors with the

skills and knowledge that will help ensure that the individuals with disabilities that they serve can meet current demands and emerging trends in the labor market, including how:

(1) The curriculum aligns with evidence-based and competency-based practices in the field of rehabilitation counseling;

(2) The curriculum prepares students to meet all applicable certification standards;

(3) The curriculum addresses new or emerging consumer needs or trends at the national, State, and regional levels;

(4) The curriculum teaches students to address the needs of individuals with a range of disabilities and individuals with disabilities who are from diverse cultural backgrounds;

(5) The curriculum will train students to assess the assistive technology needs of consumers, identify the most appropriate assistive technology services and devices for assisting the consumer to obtain and retain employment, and train consumers to use such technology;

(6) The curriculum will teach students to identify employer needs in their State and local areas and to work with employers effectively in today's economy; and

(7) The latest technology is incorporated into the methods of instruction (e.g., the use of distance education to reach students who live far from the university and the use of technology to acquire labor market information).

(c) Describe their methods to:

(1) Recruit highly capable prospective students who have the potential to successfully complete the academic program, all required practicum and internship experiences, and the required service obligation;

(2) Educate potential students about the terms and conditions of the service obligation under 34 CFR 386.4, 386.34, and 386.40 through 386.43 so that they will be fully informed before accepting a scholarship;

(3) Maintain a system that ensures that students sign a payback agreement and an exit form when they exit the program, regardless of whether they drop out, are removed, or successfully complete the program;

(4) Provide academic support and counseling to students throughout the course of the academic program to ensure successful completion;

(5) Ensure that all students complete an internship in a State VR agency as a requirement for program completion;

(6) Provide career counseling, including informing students of professional contacts and networks, job leads, and other necessary resources and information to support students in successfully obtaining and retaining qualifying employment;

(7) Maintain regular contact with students upon successful program completion, (e.g., matching students with mentors in the field), to ensure that they have support during their search for qualifying employment as well as support during the initial months of their employment;

(8) Maintain regular communication with students after program exit to ensure that student contact information is up-to-date and that documentation of employment is accurate and meets the regulatory requirements for qualifying employment; and

(9) Maintain accurate information on, while safeguarding the privacy of, current and former students from the time they are enrolled in the program until they successfully meet their service obligation.

(d) Describe a plan for developing and maintaining partnerships with State VR Agencies and community-based rehabilitation service providers that includes:

(1) Coordination between the grantee and the State VR agencies and community-based rehabilitation service providers that will promote qualifying employment opportunities for students and formalized on-boarding and induction experiences for new hires;

(2) Formal opportunities for students to obtain work experiences through internships, practicum agreements, job shadowing, and mentoring opportunities; and

(3) A mechanism for ensuring that there is an assessment developed by the supervisor at the work site that details the student's strengths and areas for improvement that must be addressed, and that whenever possible, the results of this assessment are provided to the institution to ensure that future students receive all necessary preparation and training prior to program completion.

(e) Describe how students will be evaluated throughout the entire program to ensure that they are proficient in meeting the needs and demands of today's consumers and employers, including the steps that will be taken to provide assistance to a student who is not meeting academic standards or who is performing poorly in a practicum or internship setting.



(f) Describe how the program will be evaluated, including the effect the program has over a period of time on filling vacancies in the State VR agency with qualified counselors capable of providing quality services to consumers; how input from State VR agencies and community-based rehabilitation service providers will be included in the evaluation; and how the data and results from the evaluation will be used to make necessary adjustments and improvements to the program.

Types of Priorities:

When inviting applications we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the Federal Register. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority:

We will announce the final priority in a notice in the Federal Register. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563.

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866

defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in

Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this proposed priority only on a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as

necessary for administering the Department's programs and activities.

The benefits of the Rehabilitation Long-Term Training program have been well established over the years through the successful completion of similar projects. This proposed priority would promote rehabilitation counseling programs that will better prepare students to assist individuals to achieve employment in today's challenging economy.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at: [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the Federal Register by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: June 11, 2013

---

Michael K. Yudin,  
Delegated the authority to  
perform the functions and  
duties of the Assistant  
Secretary for Special  
Education and Rehabilitative  
Services.

[FR Doc. 2013-14186 Filed  
06/13/2013 at 8:45 am;  
Publication Date: 06/14/2013]